

In re Appln of Wolfram ANDERSCH et al
Appln No. 10/555,105
Reply to Office Action of Dec. 31, 2009
Amendment dated June 22, 2010

REMARKS

The claims are amended to change the dependency of claim 9 and to add new claim 15.

In the advisory action of February 28, 2011, the examiner has indicated that claims 2-5 and 8-14 stand rejected under 35 USC 103(a) and provides his comments in response to applicants' arguments.

In reply thereto, applicants wish to point out that, as explained in the previous response, testing the hundreds of compounds mentioned in the Watanabe primary reference is overly burdensome especially in view of the fact that the prior art does not point the skilled person to specific groups of compounds and thus, a person skilled in the art would have no hint on how to narrow that extensive list to a much smaller group based on the teachings of the prior art. Furthermore, in the absence of experimental data in the prior art showing a synergistic effect, the list appearing in the disclosure of Watanabe is an open list not much different from the entire list of pesticides known in the art.

The present claims are directed to a synergistic composition providing a synergistic effect as compared to

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individual compounds. The fact that the prior art teaches the addition of extenders and/or surface active agents is not relevant to the claimed specific combinations. Moreover, the examiner has not indicated to which document and paragraph he is referring to in his conclusions with respect to his statement that "the prior art teaches the addition of extenders and/or surface active agents which would also increase the activity of the active agents, given the exposure of the active would increase".

Even if the prior art teaches that the addition of extenders and/or surface active agents would also increase the activity of the active agents, such a teaching would nevertheless have no relevance to the presently claimed combinations and would not suggest that the active agents are synergists with a compound of formula I, as recited in the presently claimed composition.

As the claims are limited to synergistic compositions, the scope of the claims is clear and those compositions exhibiting a synergistic effect are within the scope of the claims. Moreover, since the claims are limited to synergistic compositions, there is no need to further limit the claims to specific concentration ranges, as what is unobvious and would

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require undue experimentation is the determination of the specific combination of compounds presently recited in the instant claims.

Reconsideration and withdrawal of the maintained 103(a) rejection are therefore respectfully requested.

Respectfully submitted,

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